

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IVY BYRD GAINES, ) CASE NO. C08-0050-TSZ-MAT  
Petitioner, ) (CR03-496-TSZ)  
v. )  
UNITED STATES OF AMERICA, ) ORDER DENYING PETITIONER'S  
Respondent. ) MOTION FOR APPOINTMENT OF  
 ) COUNSEL  
 )

This matter comes before the Court on petitioner's motion for appointment of counsel.

15 The Court, having reviewed petitioner's motion for appointment of counsel, and the balance of  
16 the record, does hereby find and ORDER as follows:

17 (l) Petitioner's motion for appointment of counsel (Dkt. No. 2) is DENIED. There  
18 is no right to have counsel appointed in cases brought under 28 U.S.C. § 2255 unless an  
19 evidentiary hearing is required. *See Terrovona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988);  
20 *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1991), cert. denied, 503 U.S. 1011 (1992); and  
21 Rule 8(c) of the Rules Governing Section § 2255 Cases in the United States District Courts.

The Court may exercise its discretion to appoint counsel for a financially eligible individual

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01 where the "interests of justice so require." 18 U.S.C. § 3006A. However, petitioner fails to  
02 satisfy the Court that the interests of justice are best served by appointment counsel at this  
03 juncture. If the Court later orders an evidentiary hearing, the Court will appoint counsel if  
04 petitioner qualifies.

05 (2) The Clerk shall direct copies of this Order to petitioner and to the Hon. Thomas  
06 S. Zilly.

07 DATED this 31st day of January, 2008.

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10 Mary Alice Theiler  
11 United States Magistrate Judge  
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